

PT 03-10

Tax Type: Property Tax

Issue: Religious Ownership/Use

**STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
SPRINGFIELD, ILLINOIS**

THE DEPARTMENT OF REVENUE)	
OF THE STATE OF ILLINOIS)	
)	Docket No. 02-PT-0020
v.)	PIN 10-1-16-07-00-000-019.C01
)	Tax Year 2001
ST. JOHN’S UNITED METHODIST)	
CHURCH OF EDWARDSVILLE)	
Applicant)	

RECOMMENDATION FOR DISPOSITION

Appearances: George Logan, Special Assistant Attorney General, for the Department of Revenue of the State of Illinois; Tad Armstrong of Armstrong Law Offices for St. John’s United Methodist Church of Edwardsville.

Synopsis:

This case concerns whether property that is located in Madison County and owned by St. John’s United Methodist Church of Edwardsville (“applicant”) qualifies for a property tax exemption for the year 2001. The applicant alleges that the property qualifies for an exemption on the basis that it is used exclusively for religious purposes. The Department of Revenue (“Department”) denied the exemption on the basis that the religious use of the property is only incidental. The applicant timely protested the denial, and an evidentiary hearing was held. At the hearing, the applicant presented a statement

of facts that were attested to by one of its witnesses, and the Department agreed that the facts should be considered evidence in this case. The applicant presented the testimony of two witnesses at the hearing. After reviewing the record, it is recommended that this matter be resolved in favor of the applicant.

FINDINGS OF FACT:

1. The applicant is a church organized for the sole purpose of furthering the Christian religion and the gospel of Jesus Christ. The applicant's current church is located at 201 St. Louis Street in Edwardsville. (Fact #1; Applicant's Ex. #4)

2. The current church does not have any outdoor space for religious based church-wide picnics and youth activities. (Fact #6)

3. On May 4, 1998, the applicant's members decided to build church facilities on a new site in the Edwardsville area to insure the future growth of the congregation. (Applicant's Ex. #3)

4. On October 1, 2000, the applicant's members decided to purchase 20 acres of land with the Burns Nursery Building ("Burns Nursery property") on Route 143 for its new location. On March 11, 2001, they decided that the closing date would be August 1, 2001. (Fact #3; Applicant's Ex. #4, 6)

5. On August 18, 2001, the applicant obtained a warranty deed for the Burns Nursery property. This is the property that is at issue in this case. (Fact #3, 8; Applicant's Ex. #7)

6. After the applicant obtained the deed, it issued a press release wherein it stated that it planned to begin immediately using the Burns Nursery property for youth activities. (Fact #9; Applicant's Ex. #8)

7. The press release stated that the nursery building would be incorporated into the design of the new church. It also stated that the completion of the phases of construction depended on the sale of the existing church. (Applicant's Ex. #8)

8. The applicant is currently still using its church on St. Louis Street. The date for building the new church has not been set. (Tr. pp. 9-10)

9. Because the Burns Nursery property had been used as a nursery, extensive cleaning needed to be done in order to prepare it for use by the applicant. (Tr. pp. 8-9)

10. During the months of September through November of 2001, the junior and senior high youth groups of the applicant cleaned and arranged the building on the property in order to use it to hold youth functions in furtherance of the religious purposes of the applicant. (Fact #23)

11. In 2001, the youth groups met on the property to discuss how they could use the property and facility for their group activities. (Tr. pp. 7-8)

12. In December of 2001, the applicant's junior and senior high youth groups began using the property (both inside the buildings and outside on the grounds) for religious youth activities and prayer. (Fact #13)

13. Before the youth groups began using the property in December of 2001, the youth groups met on the property approximately six times. (Tr. p. 8)

14. From August through December of 2001, the applicant hired personnel to mow and maintain the grounds, in part to provide a place for outdoor youth activities for church members. (Fact #24)

15. Near the end of 2001, the applicant began scheduling religious activities every Sunday on the Burns Nursery property. (Tr. p. 10)

16. In 2001, the applicant never leased or used the property with a view to profit.
(Fact #28, 31)

17. During 2001, the applicant collected approximately \$195,000 in pledges from its members for the purchase and maintenance of the property and construction on the property. (Fact #15)

18. In 2001, both before and after the purchase of the property, the applicant's Trustees met with Karasek Architects several times on the property to discuss the plans for remodeling and construction. (Fact #11, 14; Tr. p. 16)

19. After the applicant purchased the property, the architects began master planning. In September 2001, the architects began the initial building design. The architects last met with the church building committee on August 5, 2002 and were told to hold additional services until a decision and/or sale was made of the existing church facilities. (Fact #18; Applicant's Ex. #12)

20. In June 2001, the architects completed a Site Survey and Master Plan of the property. In September 2001, the architects completed the Floor Plan of the property. (Fact #19; Applicant's Ex. #13)

21. The applicant received invoices totaling \$12,200 for services rendered by Karasek Architects prior to 2002. During 2001, the applicant paid Karasek Architects \$9,700. (Fact #20; Applicant's Ex. #14, 15)

CONCLUSIONS OF LAW:

The applicant has requested a religious exemption from the property tax pursuant to section 15-40 of the Property Tax Code, which provides in part as follows:

All property used exclusively for religious purposes, or used exclusively for school and religious purposes, or for orphanages and not leased or

otherwise used with a view to profit, is exempt, * * *. 35 ILCS 200/15-40.

In determining whether property is exempt under this provision, the primary use of the property, rather than its incidental use, must be considered. Illinois Institute of Technology v. Skinner, 49 Ill.2d 59, 65-66 (1971); People ex rel. Pearsall v. Catholic Bishop of Chicago, 311 Ill. 11, 16 (1924). In order to qualify for the exemption, the property must actually be used for the exempting purpose. Illinois Institute of Technology at 64. Intention to use is not the same as actual use. Id.

It is well-established that property tax exemption provisions are strictly construed in favor of taxation. Chicago Patrolmen's Association v. Department of Revenue, 171 Ill.2d 263, 271 (1996). The party claiming the exemption has the burden of clearly proving that it is entitled to the exemption, and all doubts are resolved in favor of taxation. Id.; City of Chicago v. Department of Revenue, 147 Ill.2d 484, 491 (1992).

The Department contends that the applicant is not entitled to the exemption because the applicant primarily uses the property as vacant land. The Department believes that any religious use of the property is merely incidental.

The applicant contends that the facts of this case indicate that the property was used exclusively for a religious purpose far more than the property that was used in Lutheran Church of the Good Shepherd of Bourbonnais v. Department of Revenue, 316 Ill.App.3d 828 (3rd Dist. 2000). In that case, the court found that the church's decision to refrain from planting crops and its mowing and tilling the land in preparation for planting grass seed were enough to find that the property was used for exempt purposes. In the present case, the applicant argues that there were actual religious uses of this property in 2001. Also, prior to the actual religious use, the applicant was in the process of

developing and adapting the property for exempt use. See Weslin Properties, Inc. v. Department of Revenue, 157 Ill.App.3d 580 (2nd Dist. 1987). The applicant believes that the only use, and therefore the exclusive use of the property, was for religious purposes.

The facts support the applicant's contention that during 2001, it was using the property for religious purposes. The applicant purchased the property with the intent to use it for the location of its new church. The hiring of the architects and the collection of money from its members support the applicant's claim that it intends to use the property for religious purposes. These facts alone, however, are not sufficient to find that the property is exempt because intention is not the same as actual use. Illinois Institute of Technology, supra. The other facts in the record indicate that the property was actually used for religious purposes. The architects' plans included keeping the existing building and incorporating it into the new church. Because the property had been used as a nursery, the property and building needed extensive cleaning to prepare it for the applicant's use. The applicant's junior and senior high youth groups cleaned the property. They also prepared the building in order to hold its youth functions there. The youth groups met on the property approximately six times, and then in December of 2001, the youth groups began using both the building and the outside grounds for religious youth activities and prayer. The applicant's current church does not have any outdoor space for outdoor activities, so the applicant needed to begin to use the property for that purpose as soon as possible. Throughout this time period, the applicant mowed and maintained the property in order to use it for outdoor activities. These activities indicate that the applicant was preparing the property and then actually using the property for religious activities, which allows it to qualify for the exemption.

Recommendation:

For the foregoing reasons, it is recommended that the applicant's property be exempt from taxes for 2001 beginning August 18, 2001.

Linda Olivero
Administrative Law Judge

Enter: March 31, 2003